

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE No. 1:16CR186 (Defendant #4)
)	
Plaintiff,)	JUDGE BENITA Y. PEARSON
)	Magistrate Judge George J. Limbert
v.)	
)	
MODERN CONSTRUCTION GROUP,)	<u>REPORT AND RECOMMENDATION</u>
LLC.,)	<u>OF MAGISTRATE JUDGE</u>
)	
Defendant.)	

Pursuant to General Order 99-49, this case was referred on June 6, 2016 to United States Magistrate Judge George J. Limbert for the purposes of receiving, on consent of the parties, Defendant Modern Construction Group LLC.'s plea of guilty proffered by Defendant Lizandro Orellana, owner and operator thereof, conducting the colloquy prescribed by Fed. R. Crim. P. 11, causing a verbatim record of the proceedings to be prepared, conducting a presentence investigation, and submitting a Magistrate Judge's Report and Recommendation stating whether the plea should be accepted and a finding of guilty entered. ECF Dkt. #2. The following, along with the transcript or other record of the proceedings submitted herewith, constitutes the Magistrate Judge's Report and Recommendation concerning the plea of guilty proffered by Defendant Modern Construction Group, LLC, through owner and operator thereof, Defendant Lizandro Orellana.

1. On June 21, 2016, Defendant Lizandro Orellana, as owner and operator on behalf of Defendant Modern Construction Group LLC., accompanied by Attorney Timothy J. Kucharski, executed a consent to referral of Defendant Modern Construction Group LLC.'s case to a United States Magistrate Judge for the purpose of receiving a guilty plea.

2. Defendant Orellana then proffered a plea of guilty to Count Four of the Information on behalf of Defendant Modern Construction Group, LLC as its owner and operator.

3. Prior to such proffer, Defendant Orellana was examined as to his authority to enter the guilty plea on behalf of Defendant Modern Construction Group, LLC., examined as to his competency, advised of the charges and consequences of conviction, informed that the Court is not bound to apply the Federal Sentencing Guidelines but must consult the guidelines and take them into consideration when it imposes the sentence and of the possibility of a departure from the Guidelines, notified of the rights of Defendant Modern Construction Group, LLC., advised that he was waiving all of those rights except the right to counsel, and, if such were the case, his right to appeal, and otherwise provided with the information prescribed in Fed. Crim. R. 11.

4. The undersigned was advised that a written plea agreement existed between the parties, and no other commitments or promises have been made by any party, and no other written or unwritten agreements have been made between the parties.

5. The undersigned questioned Defendant Orellana under oath about the knowing, intelligent, and voluntary nature of the plea of guilty on behalf of Defendant Modern Construction Group, LLC., and the undersigned believes that Defendant Orellana's plea on behalf of Defendant Modern Construction Group, LLC. was offered knowingly, intelligently, and voluntarily.

6. The parties provided the undersigned with sufficient information about the charged offenses and Defendant Modern Construction Group LLC.'s conduct to establish a factual basis for the plea.

In light of the foregoing, and the record submitted herewith, the undersigned concludes that Defendant Orellana's plea on behalf of Defendant Modern Construction Group, LLC. as its owner and operator, was knowing, intelligent, and voluntary, and all requirements imposed by the United

States Constitution and Fed. R. Crim. P. 11 have been satisfied.

Accordingly, the undersigned recommends that the plea of guilty be accepted and a finding of guilty be entered by the Court as to Count Four of the Information.

Date: June 21, 2016

/s/George J. Limbert

George J. Limbert

United States Magistrate Judge

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this notice. Fed. R. Crim. P. 59. Failure to file objections within the specified time constitutes a WAIVER of the right to appeal the Magistrate Judge's recommendation.